

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Daniel Giansante	Team: Squad #7	CCRB Case #: 201803266	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 12/20/2017 6:05 PM	Location of Incident: Bruckner Boulevard and Lafayette Avenue	Precinct: 41	18 Mo. SOL 6/20/2019	EO SOL 6/20/2019	
Date/Time CV Reported Tue, 05/01/2018 5:52 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 05/01/2018 5:52 PM		
<b>Complainant/Victim</b>	<b>Type</b>	<b>Home Address</b>			
<b>Witness(es)</b>	<b>Home Address</b>				
<b>Subject Officer(s)</b>	<b>Shield</b>	<b>TaxID</b>	<b>Command</b>		
1. POM Jose Torres	10511	946334	PBBX SU		
<b>Witness Officer(s)</b>	<b>Shield No</b>	<b>Tax No</b>	<b>Cmd Name</b>		
1. POM Franklyn Santana	12709	949617	041 PCT		
<b>Officer(s)</b>	<b>Allegation</b>			<b>Investigator Recommendation</b>	
A.POM Jose Torres	Abuse: Police Officer Jose Torres refused to provide his shield number to § 87(2)(b)				

### Case Summary

On December 20, 2017, § 87(2)(b) filed the following complaint by phone with IAB, generating original log number § 87(2)(b) (BR01). § 87(2)(g)

On May 3, 2018, while providing a phone statement for a different CCRB case, § 87(2)(b) complained again about this incident § 87(2)(g) (BR02).

On December 20, 2017, at approximately 6:05 p.m., Police Officer Jose Torres and Police Officer Franklyn Santana stopped § 87(2)(b) vehicle for its illegally-tinted windows at the intersection of Bruckner Boulevard and Lafayette Avenue in the Bronx. PO Torres and PO Santana were then assigned to the 41<sup>st</sup> Precinct. During the stop, PO Torres refused to provide his shield number to § 87(2)(b) (**Allegation A: Abuse of Authority**, § 87(2)(g) PO Torres issued four summonses to § 87(2)(b) for his vehicle's window tints (BR03).

§ 87(2)(b) provided a short clip of cellphone footage that he filmed while he was speaking to PO Torres (BR04; BR05).

### Findings and Recommendations

- **Allegation (A) Abuse of Authority: Police Officer Jose Torres refused to provide his shield number to § 87(2)(b)**

The cellphone footage provided by § 87(2)(b) (BR04), embedded below and summarized in the case file (BR05), shows a short portion of his interaction with PO Torres:



201803266\_20180503\_1802\_DM.mp4

In the footage, § 87(2)(b) repeatedly asks PO Torres either to display his shield or to provide his shield number. He specifically asks PO Torres to provide his shield number once at the beginning of the conversation. Throughout the rest of the exchange, § 87(2)(b) merely asks PO Torres to display his shield, or he uses less definitive language, such as asking for PO Torres' "ID." PO Torres' shield is not visible on his person in the video. PO Torres never states his shield number aloud, nor does he ever display his shield. PO Torres tells § 87(2)(b) multiple times that he will provide his "badge" or his "information" on the summons that he is going to issue to § 87(2)(b). When § 87(2)(b) indicates that he wants to see PO Torres' shield so he can confirm that PO Torres is a police officer, PO Torres points out his "gun belt" and his vehicle's emergency lights as proof that he is an officer.

§ 87(2)(b) called 911 during the incident, after the interaction depicted in the cellphone footage. The recording of that call shows that § 87(2)(b) asked to see PO Torres' shield three more times when PO Torres returned to the vehicle to give him the summonses (BR06; BR07). The recording contains a good deal of crosstalk, and the entirety of the conversation is not decipherable. PO Torres cannot be heard stating his name or shield number aloud in the recording. In the 911 recording, both before and after his interaction with PO Torres, § 87(2)(b) repeatedly complains to the operator that PO Torres has refused to "show" his badge.

When he first filed the complaint with IAB, § 87(2)(b) was unable to provide PO Torres' name or shield number to the IAB intake officer (BR08). The IAB officer identified PO Torres by directing § 87(2)(b) to read PO Torres' tax number from the summonses. During the IAB call,

§ 87(2)(b) recounted that he asked PO Torres multiple times to show him his badge. He pointed out to PO Torres that he had provided his ID, and that he simply wanted to know that PO Torres was actually a police officer. He also recounted that he told PO Torres that he wanted to know with whom he was interacting. PO Torres refused to display his shield, did not provide his shield number, and told § 87(2)(b) that he would “see everything on the ticket.” PO Torres also pointed out that § 87(2)(b) could see his gun and his vehicle’s emergency lights, which showed that he was a police officer.

§ 87(2)(b) CCRB phone statement and in-person interview were generally consistent with the account he provided to IAB (BR02; BR09). In his phone statement, § 87(2)(b) added that he asked PO Torres, “Who are you?” and PO Torres replied, “I’m a police officer.”

§ 87(2)(b) friend, § 87(2)(b) was a passenger in the vehicle during the incident. She provided a phone statement but did not provide a sworn, in-person statement (BR10). § 87(2)(b) statement generally confirmed that there was a dispute during the incident regarding PO Torres’ refusal to display his shield and to provide identifying information. § 87(2)(g)

For example, she recounted hearing a conversation with the 911 operator in which the operator instructed § 87(2)(b) to request PO Torres’ name and shield number, and that PO Torres replied that he did not have to provide his name. The 911 recording does not contain such an exchange. Similarly, § 87(2)(b) variously recounted that PO Torres refused to display his shield or provide identifying information, that PO Torres had to “give up” his information, that another officer provided PO Torres’ information, that PO Torres never actually stated his name or shield number aloud to § 87(2)(b) and that PO Torres’ name was discovered by doing “research.” § 87(2)(b) noted that she was uncertain about her recollection because there was “so much being said” during the incident. It should also be noted that the investigation was not able to successfully contact § 87(2)(b) until seven months after the incident.

At his CCRB interview, PO Torres confirmed that § 87(2)(b) requested his shield number during the incident (BR11). He also recounted that § 87(2)(b) asked for his name. He could not recall how many times § 87(2)(b) asked for this information, but he knew that § 87(2)(b) did so multiple times. PO Torres could not recall at what point during the incident § 87(2)(b) requested this information. PO Torres claimed that he stated his name and shield number aloud to § 87(2)(b) multiple times during the incident. PO Torres did not know why § 87(2)(b) kept requesting the information even though he had already provided it. PO Torres believed that § 87(2)(b) was filming with his cellphone when he stated his name and shield number aloud. PO Torres also told § 87(2)(b) that his name and tax number would appear on the summonses. PO Torres could not recall if he ever temporarily refused to provide § 87(2)(b) with his name or shield number.

After reviewing § 87(2)(b) cellphone footage, PO Torres explained that he had been wearing his shield displayed on a chain around his neck at the beginning on his interaction with § 87(2)(b). However, he tucked the shield beneath his clothing or removed it and put it in a pocket at some point during the interaction. PO Torres stows his shield whenever he believes there may be a physical altercation, as he does not want to be choked by the chain. When asked to explain why he refused § 87(2)(b) numerous requests that he display his shield during the video footage, PO

Torres said that he had already provided his identifying information multiple times to § 87(2)(b) and that his shield had already been visible to § 87(2)(b).

PO Torres acknowledged during the interview that there is no location on a VTL summons where the issuing officer notes his shield number. He claimed that he wrote his name and tax number on each summons he issued, as an officer is required to do so. He also claimed that he looked at the copies that § 87(2)(b) was going to receive and ensured that his name and tax number were visible on each of them. He did not claim that he provided his shield number to § 87(2)(b) on the summonses.

PO Santana claimed to have very little recollection of the incident (BR12). He did not recall watching or hearing PO Torres' interaction with § 87(2)(b). He did not recall hearing § 87(2)(b) request PO Torres' name or shield number, nor did he recall hearing § 87(2)(b) ask PO Torres to display his shield. PO Santana could not recall if PO Torres' shield was ever visible during the incident. Viewing § 87(2)(b) cellphone footage did not refresh PO Santana's recollection.

§ 87(2)(b) provided photographs of three of the summonses issued to him by PO Torres (BR13-BR15). PO Torres' name is faintly legible on one of them, and is not legible on the rest. In fact, the handwriting on one of the summonses is clearly not that of PO Torres, and that summons bears no officer's name or tax number at all. PO Torres' name is legible on the NYPD copies of three of the summonses (BR03). However, even the NYPD copy of the summons that is clearly not in PO Torres' handwriting bears no officer's name or tax number.

PO Torres did not recall issuing a summons to § 87(2)(b) which bore no officer's name or tax number. PO Santana could not recall if he wrote any of the summonses issued to § 87(2)(b).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Patrol Guide Procedure 203-09 requires an officer to courteously and clearly state his rank, name, shield number, and command to anyone who requests he do so. The officer may also "otherwise provide" this information (BR16).

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## Civilian and Officer CCRB Histories

- Prior to this complaint, § 87(2)(b) had not been a party to any CCRB complaints. At the time he filed this complaint, § 87(2)(b) filed three additional complaints (BR17):
  - § 87(2)(b)
  - 
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- PO Jose Torres has been a member of the NYPD for ten years and has been a subject in 19 cases and 36 allegations, of which two were substantiated:
  - Case #201609938 involved substantiated allegations of discourtesy and offensive language against PO Torres. The Board recommended a Command Discipline “A,” but the NYPD imposed no penalty.
- § 87(2)(g)

## **Mediation, Civil and Criminal Histories**

- § 87(2)(b) declined to mediate this complaint.
- On September 24, 2018, the undersigned requested a copy of any Notice of Claim filed with the NYC Comptroller's office regarding this incident. As of the date of this report, no response has been received. A copy of the response will be added to the case file upon receipt.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Squad No.: 8

Investigator: \_\_\_\_\_ Inv. Daniel Giansante \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_

Signature	Print Title & Name	Date
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Reviewer:

Signature

Print Title & Name

Date

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